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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

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PADDINGTON & COMPANY LIMITED,	:
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Opposer,	:
	:
v.	:
	:
JULIANNE TOZER and	:
JASON TOZER,	:
	:
Applicants.	:
-----X	

Opposition No.

Serial No. 78/707,158

NOTICE OF OPPOSITION

In the matter of pending United States Trademark Appln. Ser. No. 78/707,158 for the mark PADDINGTON'S TEA ROOM (hereafter "Applicants' mark" or "the '158 application") filed by Julianne Tozer and Jason Tozer (hereafter "Applicants") in International Classes 30 and 43 published in the *Official Gazette* of November 21, 2006, Opposer Paddington & Company Limited (hereafter "Paddington & Company" or "Opposer"), a British corporation, having its registered office at Cecil House, St. Andrew Street, Hertford, Hertfordshire, England believes that it will be damaged by registration of such mark and hereby opposes same.

The application as published in the *Official Gazette* may be summarized as follows:

In re trademark application:	78/707,158
Filed:	September 6, 2005
Applicants:	Julianne Tozer Jason Tozer c/o Paddington's Tea Room 355 S. Robertson Blvd. Beverly Hills, CA 90211

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U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

Mark:

PADDINGTON'S TEA ROOM

Goods:

Tea, and tea products, namely, ready to drink tea, tea concentrates, flavored and unflavored tea mixes, bagged tea, loose tea leaves and powdered tea; ground and whole bean coffee; cocoa, coffee, tea, cocoa and espresso beverages, beverages made with a base of coffee and/or espresso, beverages made with a base of tea; powdered chocolate and vanilla; flavoring syrups to add to beverages; specialty foods, namely, muffins, scones, breads, biscuits, cookies, pastries and cakes, ready-to-make mixes of the same, sandwiches and chocolate in International Class 30; and restaurant services for consumption of food and beverages on the premises and for take-out in International Class 43

Published:

November 21, 2006

As grounds for opposition, Opposer states as follows:

1. In 1958, Michael Bond, an English author, wrote the first of many children's books concerning a fictional bear named Paddington. The Paddington Bear series of books has become a staple of children's literature.

2. Paddington & Company, pursuant to a license from Michael Bond, has and continues to have the exclusive right to license in the United States the copyrighted characters named and illustrated in the copyrighted Paddington Bear series of children's books and is the owner of the trademarks pertaining thereto.

3. Under licenses granted by Paddington & Company, a wide assortment of children's merchandise is sold throughout the United States, including, but not limited to, children's books, stuffed toys, games, clothing, linens, paper goods, dinnerware and accessories, bearing the registered trademark PADDINGTON and/or the common law trademark image of the Paddington Bear character.

4. On September 6, 2005, Applicants filed the '158 application seeking registration for the mark PADDINGTON'S TEA ROOM for use in connection with various

food and beverage products in Class 30 and restaurant services in Class 43. With respect to the goods of Class 30, the application is based on an intent-to-use. With respect to the services of Class 43, the application is based on use and asserts a first use date of February 1985. The specimen of use submitted with the application shows that Applicants' mark PADDINGTON'S TEA ROOM is used in conjunction with an unauthorized copy of an image of Opposer's Paddington Bear character.

A. Prior Use and Registration of PADDINGTON

5. For decades, Paddington & Company has continuously used the trademark PADDINGTON in interstate commerce for a wide variety of children's products sold throughout the United States. The mark is used on or in connection with the goods and in advertising for the goods. The goods so marked have been widely sold and distributed throughout the United States so that the mark has acquired great value and goodwill inuring to the benefit of Paddington & Company.

6. Paddington & Company is the owner of the following United States Trademark Registrations for the mark PADDINGTON:

Registration Number	Registration Date	Goods	Date of First Use
2,521,183	December 18, 2001	Bed blankets, bed linen, bed sheets, bed spreads and textile wall hangings	December 1997
2,742,190	July 29, 2003	Pre-recorded audio cassettes featuring children's stories and/or musical programs; pre-recorded video cassettes featuring children's stories and/or musical programs; computer game cassettes; computer game programs; interactive video games of virtual reality comprised of computer hardware and software; audio cassette tapes featuring children's stories and/or musical programs	December 1979
2,553,767	March 26, 2002	Clothing, namely, mittens, shoes, pants, booties, clothing ties, clothing belts, scarves, coats, duffle coats, and sun visors	January 2000

2,656,761	December 3, 2002	Furniture, furniture mirrors, and photograph frames; seat cushions; bed frames; articles of plastic, namely, bookshelves, doorplates, coat hooks, and hangers for clothing; decorative mobiles, beds, cribs and cots, high chairs, travel cots, baby cradles, curtain rods and rails, non-metal curtain rings; and cake decorations made of plastic	1995
2,715,910	May 13, 2003	Toys, namely, board games, jigsaw puzzles; Christmas tree ornaments; Christmas tree decorations	May 1992
2,742,189	July 29, 2003	Clothing, namely, gloves, aprons, tabards, footwear and headware	March 1992
2,659,785	December 10, 2002	Stationery writing paper and paper envelopes, cardboard containers and cardboard cartons; children's books, children's magazines and comic books, printed children's activity books, stationery, pens, pencils, markers, and crayons; pencil boxes, namely, cases for pens, pencils, erasers, rulers, and pencil sharpeners; pictures, photographs and art prints, posters, artists' brushes, painting sets, pastels, pens, and pencils; rubber stamps and ink pads, memorandum and notice boards; instructional and teaching materials for children, decalcomanias and stickers, greeting cards and postcards, book marks, paper coasters, playing cards; book ends, paper weights, decorative paper centerpieces; decorative pencil top ornaments; knitting, embroidery and clothing design patterns; calendars and diaries; height charts; paper party hats; disposable diapers; writing pads, bookplates, wrapping paper, paper gift tags, paper table cloths, paper table mats and paper table napkins, tissue paper, paper towels; paper gift bags; and cake decorations made of paper	1958
2,719,536	May 27, 2003	Art prints; porcelain plates, cups, bowls, coffee and teapots not of precious metal, ceramic mugs and ceramic money boxes; hair brushes; portable beverage dispensers; drinking glasses	January 1996 for art prints; August 1995 for the remainder of the goods

2,817,624	February 24, 2004	Textile and tissue piece goods, namely, fabrics for the manufacture of home furnishings, towels, dish cloths, wash cloths; flannels, wash mitts, face cloths, bed canopies, table mats not of paper, table linen, table clothes not of paper, duvet covers, pillow cases, pillow shams, table covers not of paper, table linen, namely, coasters, textile napkins, textile shopping bags, curtains, unfitted, fabric furniture covers, tapestries of textile, textile hot water bottle covers	July 1998
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7. The above listed trademark registrations are valid and subsisting. Certified copies of the registrations will be made of record during Opposer's testimony period.

8. Paddington & Company also is the owner of United States Trademark Registration No. 1,431,281, registered March 3, 1987, for the mark PADDINGTON STN for stuffed toys. The registration recites a date of first use of 1975. This registration is valid, subsisting and incontestable in accordance with the provisions of Section 15 of the Lanham Trademark Act, 15 U.S.C. §1065. A certified copy of the registration will be made of record during Opposer's testimony period.

9. The above listed trademark registrations are prima facie evidence of the validity of the PADDINGTON trademark and of Paddington & Company's beneficial ownership thereof. Since Paddington & Company's rights in PADDINGTON significantly precede the filing date of September 6, 2005 for the '158 application and the asserted date of first use for the goods of Class 43, i.e. February 1985, there is no issue as to the priority of Paddington & Company's rights in and to the PADDINGTON mark.

B. Prior Use of the Paddington Bear Character Image

10. For decades, Paddington & Company has continuously used the image of the Paddington Bear character in interstate commerce for a wide variety of children's products sold throughout the United States, and is currently using this image on or in connection with

such goods, as well as in advertisements for the goods. The goods so marked have been widely sold and used throughout the United States so that the image of Paddington Bear has acquired great value and goodwill inuring to the benefit of Paddington & Company.

11. Paddington & Company's continuous use in commerce of the image of the Paddington Bear character since at least as early as 1959 has provided Paddington & Company with common law rights in and to this character image. Such common law rights are evidence of Paddington & Company's ownership of and exclusive right to use the Paddington Bear character image in commerce.

12. Since Paddington & Company's common law rights in its Paddington Bear character image significantly precede the filing date of September 6, 2005 for the '158 application and the asserted date of first use for the goods of Class 43, i.e. February 1985, there is no issue as to the priority of Paddington & Company's rights in and to the character image.

C. Additional Prior Uses

13. Since long prior to Applicant's filing of the '158 application and the asserted first use date of February 1985 for the goods of Class 43, Paddington & Company has engaged in an extensive licensing program wherein the mark PADDINGTON and the Paddington Bear character image were licensed to many manufacturers of quality merchandise directed mainly towards children. The manufacture and sale of all such products bearing the mark PADDINGTON and the Paddington Bear character image were licensed by Paddington & Company, and the nature and quality of the goods bearing these marks were controlled by Paddington & Company for its benefit.

14. The Paddington Bear character image and the mark PADDINGTON have been widely used by Paddington & Company and the marks possess a wide and favorable reputation in the trade and marketplace. Accordingly, the Paddington Bear character image and the mark PADDINGTON represent a valuable goodwill inuring to the benefit of Opposer.

15. The mark that Applicants seek to register is PADDINGTON'S TEA ROOM, which so resembles Opposer's PADDINGTON mark as to be likely, when applied to

the goods or services named in Applicants' application, to cause confusion or to cause mistake or to deceive. Further, the specimen of use submitted with the application shows that the subject word mark is used in conjunction with an unauthorized copy of an image of Opposer's Paddington Bear character. Applicants are endeavoring unfairly to benefit from Opposer's wide and favorable reputation and from Opposer's advertising.

16. Applicants were not entitled at the time of filing their application, and are not now entitled, to register or use the proposed term PADDINGTON'S TEA ROOM, with or without the image of the Paddington Bear character, since such mark is similar to Opposer's prior used PADDINGTON and Paddington Bear character marks as to be likely to cause confusion or to cause mistake or to deceive when applied to Applicants' goods.

17. Applicants seek to register their mark for restaurant services and various food and beverage goods. Since long prior to the filing of the '158 application and the asserted first use date of February 1985 for Class 43, the Paddington Bear character image and the mark PADDINGTON have been used by Opposer in the Paddington Bear series of books and on goods and services directed mainly to children. Paddington & Company, in August 1995, extended the line of goods to which its PADDINGTON mark is used adding porcelain plates, cups, bowls, coffee and teapots not of precious metal, ceramic mugs; portable beverage dispensers; and drinking glasses.

18. The similarity of Applicants' PADDINGTON'S TEA ROOM mark, with or without the Paddington Bear character image, and Opposer's PADDINGTON and Paddington Bear character marks, as well as the similarity of the goods to which the marks are applied, is likely to cause customers to believe that Applicants' goods originate with or are connected or sponsored by Opposer or one of its licensees resulting in likelihood of confusion and damage to Opposer's extensive goodwill in the famous Paddington Bear character image and PADDINGTON trademarks.

19. The consuming public, upon seeing Applicants' mark PADDINGTON'S TEA ROOM, with or without the image of the Paddington Bear character, in association with

the respective goods and services, is likely to believe that the goods are made or services are provided, endorsed or sponsored by Opposer, or that there is a trade connection or affiliation between Opposer and Applicants.

20. Opposer will be damaged by the public's confusion that will result if Applicants are permitted to obtain a registration for their PADDINGTON'S TEA ROOM mark. Any faults or defects which might be found in Applicants' goods or services would reflect adversely upon and seriously injure the valuable reputation and goodwill of Opposer.

21. For the foregoing reasons, Opposer would be greatly damaged by the registration of the PADDINGTON'S TEA ROOM mark by Applicants.


WHEREFORE, Opposer, Paddington & Company Ltd., respectfully requests that this Opposition be sustained and that Application Serial No. 78/707,158 be rejected.

The fee required under 37 C.F.R. § 2.6(a)(17) is enclosed herewith. Please charge any additional fees or credit any overpayment to Deposit Account No. 06-1205.

Respectfully submitted,

Dated: December 18, 2006

By:


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